

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

ASTELLAS INSTITUTE FOR REGENERATIVE  
MEDICINE, and STEM CELL & REGENERATIVE  
MEDICINE INTERNATIONAL, INC.,

Plaintiffs,

V.

IMSTEM BIOTECHNOLOGY, INC., XIAOFANG  
WANG, and REN-HE XU,

Defendants.

C.A. NO. 1:17-cv-12239-ADB

**DEFENDANTS' ASSENTED-TO MOTION FOR LEAVE TO FILE UNDER SEAL  
DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT  
AND EXHIBITS THERETO**

Pursuant to L.R. 7.1(b)(3), Defendants ImStem Biotechnology, Inc., Xiaofang Wang, and Ren-He Xu (collectively, “Defendants”) respectfully request that the Court grant them leave to file under seal their (1) Motion for Partial Summary Judgment; (2) Defendants’ Memorandum of Law in Support of Their Motion for Partial Summary Judgment; (3) Defendants’ Statement of Undisputed Material Facts in Support of Their Motion for Partial Summary Judgment; and (4) the Declaration of Timothy Shannon in Support of Defendants’ Motion for Partial Summary Judgment, as well as the exhibits attached thereto. These documents are to be filed by December 19, 2019.

Counsel for Plaintiffs have indicated that they assent to the relief sought herein.

Under the Protective Order entered in this case, the parties may designate certain information as “Confidential” or “Highly Confidential,” which means it cannot be disclosed without a court order. (Dkt. 55 at § V.B). As such, Defendants seek to file under seal: (1) their

Motion for Partial Summary Judgment and all accompanying papers; and (2) the following additional documents/exhibits, which have been designated under the Protective Order:

1. Excerpts from the June 18, 2019 deposition of Erin Kimbrel;
2. Excerpts from the June 20, 2019 deposition of Robert Lanza;
3. Excerpts from the November 22, 2019 deposition of Bryan Zerhusen, Ph.D. Deposition;
4. Excerpts of the report of Dr. Bell;
5. Excerpts of the Opening Report of Dr. Fortier;
6. Emails from January 1, 2011 to December 31, 2015 among ACT personnel and/or Defendants;
7. Up to ten additional documents the Plaintiffs produced in this case.

Pursuant to L.R. 7.2(a), Defendants believe the aforementioned materials can and should be de-designated and published immediately but, for purposes of timely filing their Motion for Partial Summary Judgment, request that they be filed now under seal. *Cf.* (Dkt. 55 at §3(b) (burden is on designating party)).

Defendants likewise request leave to file publicly a redacted version of their Motion for Summary Judgment brief and exhibits thereto, redacting Confidential and Highly Confidential Information.

**WHEREFORE**, Defendants respectfully request the Court grant their Assented-To Motion for Leave to File Under Seal Defendants' Motion for Partial Summary Judgment And Exhibits Thereto.

Dated: December 19, 2019

Respectfully submitted,

IMSTEM BIOTECHNOLOGY, INC., REN-  
HE XU and XIAOFANG WANG,

By their Attorneys,

/s/ Timothy R. Shannon

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**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1**

I hereby certify that, on December 18, 2019, counsel for Defendants conferred by email with Counsel for Plaintiffs in a good faith effort to narrow or resolve the issues raised in the instant motion. Counsel for Plaintiffs indicated they do not oppose the relief sought by the instant Motion.

Dated: December 19, 2019

/s/ Timothy Shannon

Timothy R. Shannon

**CERTIFICATE OF SERVICE**

I hereby certify that I caused this document to be filed through the CM/ECF system, to be sent electronically to the registered participants, and paper copies to be sent to those indicated as nonregistered participants on the date below.

Dated: December 19, 2019

/s/ Timothy Shannon

Timothy R. Shannon